

**JUL 24 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

VICTORIA L. RAY,

Defendant - Appellant.

No. 04-30520

D.C. No. CR-02-00055-DWM

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Montana  
Donald W. Molloy, District Judge, Presiding

Submitted May 15, 2006<sup>\*\*</sup>

Before: B. FLETCHER, TROTT and CALLAHAN, Circuit Judges.

Victoria L. Ray appeals from the sentence imposed upon her following the revocation of supervised release. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Ray contends that the imposition of a prison term upon revocation of supervised release which, combined with the original prison term, exceeds the sentence recommended by the United States Sentencing Guidelines, violates the Sixth Amendment. We reject this contention because the sentencing guidelines provide advisory sentences, not statutory maximum sentences. *See United States v. Booker*, 543 U.S. 220, 245-46 (2005).

We also reject Ray's contention that the revocation of supervised release constitutes judicial fact-finding in violation of the Sixth Amendment. *See United States v. Huerta-Pimental*, 445 F.3d 1220 (9th Cir. 2006).

**AFFIRMED.**